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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,964	06/05/2000	Pascale Adolphine Emilienne De Meuter	PM 270736	6581

7590

12/26/2001

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EXAMINER

WONG, LESLIE A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/26/2001

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/586,964**

Applicant(s)  
**De Meuter et al.**

Examiner  
**Leslie Wong**

Art Unit  
**1761**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on August 27, 2001 and November 7, 2001

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-3 and 6-17 is/are pending in the application.

4a) Of the above, claim(s) 7, 8, and 17 is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-3, 6, and 9-16 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some\* c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3

20) ☐ Other:

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Applicant's election with traverse of Group I in Paper Nos. 5 and 9 is acknowledged. The traversal is on the ground(s) that there is no burden on the Examiner. This is not found persuasive because Inventions I and II are related as process of making and product made and in the instant case, the product as made can be made by another and materially different process.

The requirement is still deemed proper and is therefore made FINAL.

It is noted that the claims have been amended to remove improper multiple claim structure. The product claims include claims 1-3, 6, and 9-16 and represent Group I with chewing gum elected as the species. New claim 17 is directed to a process and is excluded from Group I for the reasons set forth in the previous restriction requirement.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 6, and 9-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenplenter.

Rosenplenter teaches a sugar-free hard coated chewing gum wherein the coating comprises sorbitol and erythritol in the amounts claimed, and the coating is applied 1-100 times (see entire patent).

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Serpelloni et al and Greenberg et al are cited as teaching coatings containing erythritol and sorbitol (see entire patents).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is (703) 308-1979. The examiner can normally be reached on Tuesday-Friday.

The fax number for this Group is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Leslie Wong". The signature is fluid and cursive, with the first name "Leslie" written in a larger, more prominent script than the last name "Wong".

**Leslie Wong**  
**Primary Examiner**  
**Art Unit 1761**

LAW  
December 21, 2001